



James City County Purchasing Office  
101-F Mounts Bay Road, Suite 300  
Williamsburg, VA 23185  
Phone: (757) 253-6644/6646  
Fax: (757) 253-6753

Email: [kitty.hall@jamestownva.gov](mailto:kitty.hall@jamestownva.gov)

<http://va-jamestownva.gov/civicplus.com/467/Bids-Requests-For-Proposals>

Proposals

**JAMES CITY COUNTY, VIRGINIA  
REQUEST FOR PROPOSALS No. 17-11495**

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**Title:** CONSTRUCTION MANAGEMENT SERVICES FOR LAFAYETTE HIGH SCHOOL AUXILIARY GYM

**Issue Date:** February 15, 2017

**Due Date:** March 9, 2017, 2PM, local time at the Purchasing Office

**Submit:** SEALED PROPOSALS, One (1) Original and Five (5) copies

**Inquiries:** Kitty Hall, VCO  
Purchasing Director, T: (757) 253-6644/6646

All questions shall be received NO LATER THAN 2:00 pm, local time February 27, 2017

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**This public body does not discriminate against faith-based organizations.**

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In compliance with this Request for Proposal and subject to all the conditions thereof, the undersigned offers to furnish the goods/services requested and certifies he/she has read, understands, and agrees to all terms, conditions and requirements of this proposal and is authorized to contract on behalf of the firm named below. By my signature on this solicitation, I certify that this firm/individual is properly licensed for providing the goods/services specified.

The Undersigned certifies that he (they) are the only person (persons) interested in said project and that it is made without connection with other persons submitting a proposal on the same scope of services; that the proposal is made without collusion, fraud, or reservation; that no official or employee of the Owner is directly or indirectly interested in said proposal, or any portion thereof.

PROPRIETARY INFORMATION YES ( ) NO ( )

Trade secrets or proprietary information is hereby submitted and identified. Reasons for protection and exclusion from the Virginia Freedom of Information Act (2.2 et seq.) is set forth below. (Additional sheet may be added if necessary.)

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Offerors should indicate on the Cover Sheet the portions of their proposal that are proprietary. Please list the page numbers and the reason(s). **Do not mark the whole proposal proprietary. If Proprietary information is stated, Offerors shall submit One (1) Original and One (1) Redacted copy (removing any proprietary data or material. Clearly identify on the Cover Sheet the "Original" and "Redacted" copy, as "Redacted Copy of Original Proposal" RFP# 17-11495**

**17-11495 Request for Proposal**

**Company Name:**\_\_\_\_\_

**Contractor License#**\_\_\_\_\_ **Type:**\_\_\_\_\_

**\*State Corporation Commission ID #**\_\_\_\_\_

**Address:**\_\_\_\_\_

**City/State/Zip:**\_\_\_\_\_

**Telephone:**\_\_\_\_\_ **FAX:**\_\_\_\_\_

**Email Address:**\_\_\_\_\_

**Federal Tax ID:**\_\_\_\_\_

**Print Name:**\_\_\_\_\_ **Title:**\_\_\_\_\_

**Signature**\_\_\_\_\_ **Date**\_\_\_\_\_

**Acknowledgement of Addendums: #1**\_\_\_\_\_ **#2**\_\_\_\_\_

**\*State Corporation Commission Requirement per the Virginia Public Procurement Act, VPPA:**

**§ 2.2-4311.2. Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth.** -- A. All public bodies shall include in every written contract a provision that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

B. Pursuant to competitive sealed bidding or competitive negotiation, all public bodies shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

C. Any bidder or offeror described in subsection B that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Director of the Department of General Services or his designee or by the chief executive of a local governing body.

D. Any business entity described in subsection A that enters into a contract with a public body pursuant to this chapter shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

E. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

**\*Virginia State Corporation Commission (“SCC”) registration information: The undersigned Offeror:**

☐ is a corporation or other business entity with the following SCC identification number: \_\_\_\_\_ **-OR-**

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust - **OR-**

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder’s out-of-state location) **-OR-**

☐ is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror’s current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

**\*\*NOTE\*\*** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver): ☐

**SUBMIT ALL PAGES OF COVER SHEET**

**WILLIAMSBURG-JAMES CITY COUNTY PUBLIC SCHOOLS  
REQUEST FOR PROPOSAL 17-11495  
CONSTRUCTION MANAGEMENT SERVICES FOR LAFAYETTE HIGH SCHOOL  
AUXILIARY GYM**

**I. PURPOSE**

The Williamsburg-James City County Public Schools is soliciting sealed proposals from qualified engineering firms to provide construction management services to support the School Division project team in the construction of the Auxiliary Gymnasium to be built at Lafayette High School.

**II. BACKGROUND**

The Williamsburg-James City County Public Schools is a jointly operated school system that encompasses the county of James City and the city of Williamsburg. Planning for the new auxiliary gym started in spring, 2016. The target date to open is fall of 2018.

The existing Lafayette High School opened in 1973. There was a major renovation in 1997. The Division desires to contract with a Construction Administration firm (“CA”) for Construction Stage services through completion of the project acting as the WJCC representative on this project.

A Request for Proposals to select an Architect(s) for the design of the new auxiliary gym was solicited and awarded to HBA.

**III. PROPOSAL DUE DATE**

Proposals are due on March 9, 2017, not later than 2:00 pm local time at the Purchasing Office, 101-F Mounts Bay Rd, Suite 300, Williamsburg, VA 23185. Proposals received after the due date and time shall be returned to the offeror unopened.

**IV. DEFINITIONS**

1. The term “Owner” used in this solicitation refers to the Williamsburg-James City County public Schools.
2. The term “Successful Offeror” means the proposer/offeror to whom the Owner (on the basis of the Owner’s evaluation as herein provided) makes an award.
3. The term “Construction Manager (CM)” refers to the person or firm awarded a contract to perform the work.

**V. SERVICES TO BE PROVIDED**

The School Division intends to hire a Construction Management firm to assist in the administration of the proposed project. The CM will work in conjunction with the Architect and WJCC Project staff from the design period through construction to completion of the project.

The Division is interested in obtaining proposals from Construction Management firms experienced in public educational facilities in the Commonwealth of Virginia.

## **VI. SCOPE OF SERVICES**

The Construction Management firm selected shall provide the WJCC School Division with the following:

- a. Assist owner to conduct a Pre-Construction conference, in conjunction with Owner and Designer, during which the project reporting procedures and other necessary rules and information are covered.
- b. Verify that all required permits, bonds, and insurance have been obtained by contractors.
- c. Conduct Construction Observation site visits at intervals appropriate to review conformance of construction with drawings and specifications, but no less than bi-weekly. After each visit, provide a field report to the owners, including photographs.
- d. Review Requests for Information (RFI), Shop Drawings, Samples, and other Submittals to determine anticipated effect on compliance, budget, and schedule. Forward to the designer for review, approval, or rejection as appropriate.
- e. Conduct site meetings with Owner-CM-Designer-Contractor at least twice a month, with additional meetings as needed. Prepare and distribute minutes of each meeting to attendees.
- f. Coordinate necessary technical inspection and testing provided by others.
- g. Authorize minor variations in the work from the requirements of the Contract Documents that do not involve an adjustment in the contract price or time and which are consistent with the overall intent of the Contract Documents.
- h. Review change order process, forms, control system; all changes to the contract between the Owner and Contractor shall be only by change orders executed by the Owner. Advise Owner of the impact each proposed change order has on the Program Master Schedule and Project budget.
- i. Owner Initiated Changes (OIC) will be described in detail in a request for proposal issued to the contractor, with associated drawings. The contractor response will be submitted and evaluated for cost and time adjustments, and reviewed with designer prior to being forwarded for signatures.
- j. Review contents of all Contractor Requested Changes (CRC) to the contract for time and cost, to determine cause of the request, and evaluate all supporting documentation and information regarding the request. Provide the designer copies of each CRC.
- k. Make recommendations to the Owner regarding all proposed change orders, and at Owner's direction prepare and issue to the contractor appropriate change order documents, additionally provide designer copies of all approved change orders.
- l. Monitor Subsurface and Physical Conditions on the site to determine if conditions or question by the contractor regarding the site differ from what the contractor is entitled to rely upon from what is indicated or referred to in the contract documents.

- m. Establish and implement a program to monitor the quality of the construction. The purpose of said program shall be to assist in guarding the Owner against work by the contractor that does not conform to the requirements of the contract documents. Any portion of work not conforming to the requirements of the contract documents shall be rejected and a notice of non-conforming work shall be transmitted to the Owner, Contractor, and Designer.
- n. Require each contractor that will perform work on the site to prepare and submit a copy of their safety program, to be kept on site at all times. Require each contractor and sub-contractor to hold weekly on site safety meetings, with a copy of the topic covered and those workers attending to be submitted.
- o. If necessary, following consultation with Designer and Owner, CM shall render to the Owner in writing, within a reasonable time frame, opinions concerning disputes between the Contractor and Owner relating to acceptability of the work or interpretation of the requirements of the contract documents pertaining to the furnishing and performing of the work.
- p. Shall receive from the contractor the operation and maintenance manuals, warranties, and guarantees for materials and equipment installed as part of the project. These shall be delivered to Owner with a copy provided to the Designer.
- q. Prior to issuance by the Designer of the certificate of Substantial Completion, a list of incomplete or non-conforming (Punch List) work will be prepared by CM and attached to the certificate of substantial completion.
- r. Shall consult with Designer and Owner in determining when the Project and Contractor's work is completed and issue a certificate of Final Completion and shall provide the Owner a written recommendation regarding payment to the Contractor.
- s. Be responsible to adjust and update the Program Master Schedule, distributing copies to the Owner and Designer.
- t. Review and Verify the Contractors Construction Schedule is prepared in accordance with the requirements of the contract documents and establishes completion dates that comply with the Program Master Schedule.
- u. On a monthly basis review the progress of construction made by the Contractor and determine the percentage complete of each construction activity indicated on the Contractor's schedule. This is to be reviewed with Contractor, Designer, and Owner. This evaluation shall serve as data for periodic construction schedule report and update, actual vs scheduled progress, and basis for progress payments to Contractor.
- v. Provide updates to the school board of construction progress as required.
- w. Should the need arise; CM may require the Contractor to prepare and submit a recovery schedule.
- x. In consultation with Designer and Contractor, develop a Schedule of Values for the construction contract.
- y. In consultation with Designer and Contractor, allocate contract cost among the Contractors' activities with the sum of the activities equaling the total contract cost.

- z. Review Contractor's request for progress payment with Designer and Owner to determine whether the amount requested truly reflects the progress of the Contractor's work. The report shall state the total contract price, payments to date, current payment requested, retainage and actual amounts owed for current period. Certificate of payment shall be signed by CM, Designer, and Owner Representative prior to processing.
- aa. Prepare and distribute the following Project Reports on a monthly basis:
  - Schedule Maintenance Reports: these reports compare projected completion dates to scheduled completion dates and to the Project Master Schedule.
  - Project Cost Reports: these reports compare actual costs (inclusive of change orders) to budgeted project costs.
  - Cash Flow Reports: these reports compare actual cash flow to planned cash flow.
  - Change Order Reports: these reports shall list all Owner-approved change orders (by number) with a short description of what change is being made and the circumstance making the change necessary.
- bb. Coordinate preparation of Record Documents to be transmitted to Owner. Record Drawings shall be distributed to owner in electronic form as well as posted blueprints.
- cc. Prior to final completion of the Project CM shall verify that the Contractor has compiled the necessary manufacturer operations and maintenance manuals, warranties, guarantees, and contractor shall index and bind such documents in an organized manner prior to deliver to Owner.
- dd. Assist Owner in obtaining an occupancy permit by coordinating final testing, preparing and submitting documentation to governmental agencies and accompanying governmental officials during inspections of the Project.
- ee. At the conclusion of the Project, CM shall prepare and deliver to the Owner a final accounting of Project budget and all close out reports.

## **V. INTERPRETATIONS AND ADDENDA**

No oral explanation in regard to the meaning of the RFP Documents will be made, and no oral instructions will be given before the award of the work. Discrepancies, omissions or doubts as to the meaning of the RFP Documents shall be communicated in writing to the Owner for interpretation. Offerors should act promptly and allow sufficient time for a reply to reach them before the submission of their Offers. Any interpretation made will be in form of an Addendum to the RFP, which will be forwarded to all holders of record and its receipt shall be acknowledged in the Offerors proposal on the RFP Cover Sheet in the space provided. All questions shall be received in writing via email to:  
[Kitty.Hall@jamescitycountyva.gov](mailto:Kitty.Hall@jamescitycountyva.gov) **NO LATER THAN 2:00 pm, local time February 27, 2017.**

## **VI. PROPOSAL SUBMISSION REQUIREMENTS**

One (1) original and five (5) copies of the proposal shall be submitted to the James City County Purchasing Office, 101-F Mounts Bay Road, Suite 300, Williamsburg, VA 23185 prior to **2:00 p.m., local time on March 9, 2017**. Proposals received after the date and time prescribed shall not be considered for contract award and shall be returned to the Offeror.

## **VII. INSTRUCTIONS FOR PROPOSAL PREPARATION**

### **1. General Requirements**

- a. Proposals shall be signed by an authorized representative of the Offeror. All information requested must be submitted. Failure to submit all information requested may result in the Purchasing Office requiring prompt submission of missing information and/or giving a lower evaluation of the proposal.
- b. Proposals should be prepared simply and economically in the order/format required herein providing a straightforward concise description of qualifications and capabilities to satisfy requirements of the RFP. Emphasis should be on completeness and clarity of content. Each copy of the proposal shall be bound and contained in a single volume where practicable. All documents submitted with the proposal should be contained in that single volume.

It is the responsibility of each firm to deliver its Proposal to the County prior to the time set for receipt, regardless of what medium is used to deliver it, whether by mail or otherwise. **PLEASE TAKE SPECIAL NOTE OF THE RECEIVING ADDRESS. No Proposal shall be considered if it arrives after the time set for receipt.**

US Postal Service regular mail, send to:

JCC Purchasing

P.O. Box 8784

Williamsburg, VA 23187

Hand delivery, US Postal Service express mail, or private delivery service (FEDEX,

UPS, etc.), send to:

JCC Purchasing

101-F Mounts Bay Road Suite 300

Williamsburg, VA 23185

James City County does not discriminate against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

Each proposal shall be font size 12 or larger, submitted with a Signed Cover Sheet, and should be tabbed for easy reference.

The School Division will not be responsible for any expenses incurred by an Offeror in preparing and submitting a proposal, or in engaging in oral presentations, discussions, or negotiations with the School Division.

Offerors who submit a proposal in response to this RFP may be required to make an oral presentation or oral presentations of their proposal in James City County at their own expense. The School Division may request the presence of Offerors' representatives from their staff at these presentations. The School Division will schedule the time and location for these presentations. By submitting its proposal, the Offeror agrees to make these representatives reasonably available in James City County.

The School Division reserves the right to waive any informality with respect to any proposal submitted in response to this RFP.



**VIII. Proposal Requirements and Evaluation Criteria. (Total possible points=175)**

Information to be provided by the CM about the firm, tabbed for easy reference. Sections A-J

**A. Firm History Points-10**

Name of Firm  
Location of principal and branch offices  
Length of time in business  
Firm ownership structure

**B. Personnel Points- 10**

List total number of firm's personnel, other than secretarial /clerical, by professional or skill group (i.e. architects, electrical engineers, mechanical engineers, cost estimators, etc.)

**C. Experience Points- 20**

List only construction management projects, which the firm has constructed during the past five years. The following information is requested on each completed project:

Project name and owner  
Year completed  
Type of project (new, renovation, addition, replacement)  
Construction cost  
Architect's name

List current construction management projects

Project name and owner  
Year completed  
Type of project (new, renovation, addition, replacement)  
Construction cost  
Architect's name

List State of Virginia school projects completed in the last 5 years in which the firm has served as CM

Project name and owner  
Year completed  
Type of project (new, renovation, addition, replacement)  
Construction cost  
Architect's name

**D. Project Staffing Points- 20**

Please identify firm's proposed management staff for the project. Provide an Organizational Chart identifying all of key staff members and showing how each interacts with the other staff members assigned to this project. For each key staff member, please include a detailed resume which summarizes:

Education, including name of institution, field of study, degree(s) earned and year(s) received.

Professional registration(s) and/or professional society membership(s)

Construction experience

Construction management project experience

**E. Services**

**Points- 25**

Describe firm's scope of preconstruction phase services and how they are provided with specific attention to the first budget estimate, methods of cost control, scheduling, value engineering and the method of reporting project status and schedule position.

Describe scope of construction phase services and detail how they are to be provided.

Describe firm's method of working with the project architects/engineers, consultants and other planning team members.

Describe firm's method of coordinating the efforts of the various trade contractors.

**F. Basis of Compensation**

**Points- 20**

Discuss in detail the methodology used by firm to construct management fee including a listing of sample general conditions, and reimbursable expenses. List all project management personnel that will be required to complete the CM Services. Monetary amounts are not required.

In addition, list overhead and profit percentages that will be used for change orders, general condition items and other reimbursable expenses.

**G. Litigation**

**Points- 15**

Describe the status of any legal claims pending or asserted within the last three years.

**H. Financial Ability**

**Points- 15**

Provide a copy of firm's last three (3) audited annual financial statements.

Provide a statement from your surety company describing your financial ability to be bonded.

**I. Approach to the project.**

**Points- 20**

Outline the overall technical approach to complete the project.

## **J. References**

**Points- 20**

The W-JCC School Division may wish to contact any current references listed in the experience section of the proposal.

## **Appendix**

Any supplemental information may be submitted as an appendix.

## **IX. Award of Contract:**

- The School Division shall engage in individual discussions and interviews with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses, and with emphasis on professional competence to provide the required services. Repetitive informal interviews are permitted. Offerors shall be encouraged to elaborate on their qualifications, performance data, and staff expertise relevant to the proposed contract. Informal interviews may be in the format of telephone, teleconference, email or in-person.
- At the discussion stage, the Owner may discuss non-binding estimates of price for services. Proprietary information from competing offerors (including any data on estimated man-hours or rates and the plan for accomplishing the scope of work) will not be disclosed to the public or to competitors, provided such information is duly marked as "Proprietary Information" by the Offeror and the designation is justified as required by Section 2.2-4342F, Code of Virginia, as revised.
- At the conclusion of the informal interviews and on the basis of evaluation factors set forth in Section VII and the information provided and developed in the selection process to this point, the School Division shall rank, in the order of preference, the interviewed offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted with the Offeror ranked first. If a contract satisfactory and advantageous to the County and the Offeror can be negotiated at a fee considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on, until such a contract can be negotiated at a fair and reasonable fee.
- Should the School Division determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one offer is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror.

James City County on behalf of the Williamsburg-James City County Public School Division may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. (Section 11-65D, Code of Virginia.) The award document will be a standard contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

The Notice of Award shall be posted on the bulletin board for public notices in the Purchasing Office and James City County Website. <http://va-jamescitycounty.civicplus.com/467/Bids-Requests-For-Proposals>.

## **IX. REFERENCES**

References may be contacted at the discretion of the School Division. Typically, only references of those Offeror that receive high rankings are contacted. The School Division reserves the right to contact entities other than those listed or in addition to those furnished in the proposal. The Offeror shall furnish the School Division all such information and data as may be requested for this purpose.

## **X. POLICY REGARDING CONTACT AFTER PROPOSAL SUBMITTAL**

After the date and time established for receipt of proposals by the School Division, any contact, in regard to the proposal initiated by any Offeror with any School Division official, other than the assigned Project Manager or Purchasing Office, is expressly prohibited. Any unauthorized contact may be deemed grounds for disqualification of any Offeror from further review.

Questions regarding this request for proposal may be directed to Kitty Hall, at [kitty.hall@jamescitycountyva.gov](mailto:kitty.hall@jamescitycountyva.gov). All questions that are pertinent to the project will be answered in the form of an addendum posted on the county website and Purchasing Office bulletin board.

## **XI. CONTRACTUAL AGREEMENT**

The contract awarded from this Request for Proposal (RFP) shall be for the term of completion of the project and fully accepted as completed by the Williamsburg-James City County Public School Division. Termination of the contract shall be as described in the General Terms and Conditions.

The negotiated fee schedule based on the agreed upon Scope of Services and terms and conditions contained herein will be incorporated into the Contract Agreement (sample provided) along with the RFP any addenda and modifications thereto.

The Offeror shall inform himself in full of the conditions relating to the performance of the contract agreement. Failure to do so shall not relieve the successful Offeror of his obligations to furnish services, materials, and reports or other services necessary to carry out the provisions of this Request for Proposal and resulting Contract Agreement and to complete the Scope of Services as outlined therein.

## **XII. INSURANCE**

1. The Contractor shall purchase and maintain during the life of this contract such Comprehensive General Liability Insurance including product and completed operations liability insurance as will provide protection from Contractor's performance of the Work and Contractor's other obligations under the contract documents, whether such performance is by Contractor, or by sub-contractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and shall otherwise bear responsibility therefore. The Contractor further agrees that all limits will be made available which are excess of the amounts below:

A. Workers Compensation and Employers Liability  
Coverage A – Statutory

Coverage B - \$100,000/\$100,000/\$500,000

A broad form of all states endorsement should be attached.

B. Commercial General Liability Including Contractual and Completed Operations.

Limit of Liability \$1,000,000 Per Occurrence

C. Commercial Auto Liability Including Hired and Non-Owned Car Liability Coverage

Limit of Liability \$1,000,000 Per Occurrence

The Contractor shall purchase and maintain during the life of this Contract such commercial automobile liability insurance including employer's non-ownership liability and hired car liability insurance to protect him and any subcontractors performing work covered by this Contract from claims for damages, whether such operations be by him or any subcontractor, or by anyone directly or indirectly employed by either of them.

D. Professional Liability – Liability for Error and Omissions in the Performance of the Contract

Limit of Liability \$2,000,000 per occurrence

E. Excess Liability

Contractors have the option of meeting the insurance requirements of B and C above with a single primary policy or by providing evidence of an excess policy that, in addition to the primary policy, provides the coverage and meets the limit requirements of the coverage as specified in B and C.

F. Self Insured Retentions, Deductibles and Aggregate Limits

- 1) All self-insured retentions, deductibles and aggregate limits on any required insurance must be disclosed and approved by the James City County Risk Management Director.
- 2) The Contractor shall file with the Owner, as herein before required, satisfactory proof of acceptable insurance coverage. Such proof shall, unless otherwise required by the Owner, consist of the following:
  - a. Certificates of insurance on the insurance carrier's standard form indicating all policies required by law and the Contract documents. Certificates of insurance shall be furnished in a number of copies equal to the number of counterparts of the Contract documents executed. Contractor shall notify Owner immediately if Contractor receives notification of non-renewal or cancellation.
  - b. The Contractor shall furnish insurance in satisfactory limits and on forms and of companies which are acceptable to the Owner's Risk Manager and shall require and show evidence of insurance coverages on behalf of any sub-contractors (if applicable) before entering into any agreement to sublet any part of the work to be done under this contract.

- 3) Williamsburg-James City County Public Schools; James City County shall be endorsed as an Additional Insured on the Commercial General Liability per ISO CG 2010 on a primary basis and a copy of the Additional Insured Endorsement page submitted. Williamsburg-James City County Public Schools; or James City County's Commercial General Liability shall not contribute in any loss payment insured under the Contractor's Commercial General Liability policy.

### **XIII. SPECIAL TERMS AND CONDITIONS**

The following terms and conditions apply to this Request for Proposal, and by submitting its proposal, the Offeror agrees to them without exception:

Neither this Request for Proposal nor the School Division's consideration of any proposal shall create any contract, expressed or implied contractual obligation by the School Division to any Offeror, or any other obligation by the School Division to any Offeror. The School Division makes no promise, expressed or implied, regarding whether it will enter into a Comprehensive Agreement with any Offeror or regarding the manner in which it will consider proposals. The School Division will only be bound by the terms of any contract or agreement into which it enters should it choose to enter into any such contract or agreements.

James City County and the Williamsburg-James City County Public School Division encourages DBE/SWAM participation but does not set specific goals.

Generally, proposal documents submitted to public bodies, such as ones submitted to the School Division, by private entities are subject to the Virginia Freedom of Information Act ("FOIA"). In accordance with Va. Code §2.2-3705 A 56, such documents are releasable if requested, except to the extent that they relate to (i) confidential proprietary information submitted to the responsible public entity under a promise of confidentiality or (ii) memoranda, working papers or other records related to proposals if making public such records would adversely affect the financial interest of the public or private entity or the bargaining position of either party. In order for Offerors to exclude confidential proprietary information from public release, Offerors must (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. The Offerer must also mark each page of information for which protection is sought with the legend- "Confidential Proprietary Information-Exempt from FOIA Release."

The provisions of Va. Code § 2.2-4310 are applicable to this RFP. The School Division will not discriminate against an Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment. This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, Section 2.2-4343.1.

All firms and personnel providing goods/services as a result of this solicitation shall be properly licensed by the Commonwealth of Virginia.

All James City County regulations/policies/requirements for working with the public apply to this contract, including offerors must be of good moral character and must not have been convicted of a felony or a crime involving moral turpitude and must submit Attachment C- Certificate of Compliance Form with proposal. During the normal hours of access to the building safety precautions, no smoking policy, and no foul language on property are to be strictly adhered to by the offeror.

#### **XIV. GENERAL TERMS AND CONDITIONS**

See Attachment A.

#### **XV. ATTACHMENTS**

Attachment A: General Terms and Conditions  
Attachment B: Certificate of Compliance

JAMES CITY COUNTY

GENERAL TERMS & CONDITIONS AND INSTRUCTIONS TO BIDDERS

These CONDITIONS AND INSTRUCTIONS TO BIDDERS shall be binding on all bidders or offerors and are incorporated by reference in all contracts resulting from any written Request for Quotes, Invitation to Bid or Request for Proposals issued, collectively the ("Request"), to which they are attached. Use of the term "bid" in these General Terms & Conditions and Instructions to Bidders is not intended to be restricted to an Invitation to Bid and shall also affect written Request for Quotes, Invitation to Bid or Request for Proposals. The Purchasing Office is responsible for the purchasing activity of James City County, a political subdivision of the Commonwealth of Virginia, and the James City Service Authority, herein referred to collectively as "James City County" or "County". Bidder/Offeror or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids/proposals: failure to do so will be at the bidder's/offeror's own risk and except as provided by law, relief cannot be secured on the plea of error.

Subject to all Federal, State and local laws, policies, resolutions, regulations, rules, limitations and legislation including the County Purchasing Policy and the County Purchasing Manual, bids/proposals on all solicitations issued by the Purchasing Office will bind bidders/ offerors to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

**Cooperative Purchasing**--James City County issues this solicitation in accordance with Section 2.2-4304 of the Virginia Public Procurement Act and Chapter 1, Section 5 of the James City County Purchasing Policy, and on behalf of the members of the Southeastern Virginia Governmental Purchasing Cooperative (SVGPC), as well as other public bodies, governmental jurisdictions and school divisions.

Bidders/Offerors are advised that all resultant contracts will be extended, with the authorization of the bidder/offeror, to other public bodies, governmental jurisdictions and school divisions as may be interested. Should other entities decide to use the final contract, the contractor shall deal directly with that jurisdiction or political subdivision concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing and payments. James City County acts only as the "Contracting Agent" for these jurisdictions and political subdivisions. Failure to extend a contract to any jurisdiction will have no effect on consideration of your bid or offer.

It is the responsibility of the contractor to notify the public bodies, jurisdictions and political subdivisions of the availability of the contract.

Each participating public body, jurisdiction and political subdivisions has the option of executing a separate contract with the contractor. Such contracts may contain general terms and conditions unique to those jurisdictions and political subdivisions. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the contractor, the contractor may withdraw its extension of the award to that jurisdiction.

James City County shall not be held liable for any costs or damages incurred by another public body or jurisdiction as a result of any award extended to that public body, jurisdiction or political subdivision by the contractor.

SVGPC members reserve the right to make awards to the lowest responsive and responsible offeror during the contract term. SVGPC members not explicitly named in the IFB are not obligated to participate, nor is the successful offeror obligated to contract with other SVGPC members.

City of Chesapeake  
City of Hampton  
City of Newport News  
City of Norfolk  
City of Portsmouth  
City of Virginia Beach  
City of Williamsburg  
County of Gloucester  
County of James City  
County of King William  
Thomas Nelson Community College  
Newport News Redevelopment & Housing  
DDS Tidewater Regional Office  
Revised 8/30/16

Newport News Public Schools  
Williamsburg/James City County Public Schools  
York County Public Schools  
Christopher Newport University  
College of William & Mary  
Norfolk State University  
Tidewater Community College  
Jamestown/Yorktown Foundation  
Southeastern Public Service Authority  
County of York  
Portsmouth Redevelopment & Housing  
CAS Norfolk Regional Office



1. **AUTHORITY AND COOPERATIVE PURCHASING**—The County Purchasing Director has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order issued by James City County. In the discharge of these responsibilities, the County Purchasing Director may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Director, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of James City for an indebtedness. Any purchase order or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.
2. **COMPETITION INTENDED:** It is the County's intent that this solicitation permit competition. It shall be the Bidder's/Offeree's responsibility to advise the Purchasing Director in writing if any language, requirement, specification, etc., or any combination thereof, stifles competition or inadvertently restricts or limits the requirements stated in this solicitation to a single source. The Purchasing Director must receive such notification not later than five (5) business days after solicitation release date

### CONDITIONS OF BIDDING

3. **CLARIFICATION OF TERMS –**
  - a. Questions. If any Bidder/Offeree has questions about the specifications or other solicitation documents, the prospective Bidder/ Offeree should contact the buyer whose name appears on the face of the solicitation no later than five (5) business days after solicitation release date. Any revisions to the solicitation will be made only by addendum issued by the buyer. Notifications regarding specifications may not be considered if received more than five (5) business days of the release date of the solicitation.
  - b. Exceptions:
    1. Information Technology procurements. Exceptions to liability provisions must be stated by the offeror in writing at the beginning of negotiations.
    2. Architectural or Engineering services. Exceptions to proposed contractual terms and conditions shall be listed after the qualified offeror has been ranked for negotiations, if such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to Section 2.2-1132 of the Virginia Code, 1950, as amended.
4. **USE OF COUNTY FORM AND TERMS AND CONDITIONS:**

Failure to submit a solicitation on the official James City County form provided for that purpose or unauthorized modification of or additions to any portion of the solicitation documents may be a cause for rejection of the bid/proposal if the price, quality, quantity, delivery, necessary assurances, performance of the contract and other factors deemed important to the solicitation will be affected. James City County reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject any bid or proposal which has been modified. The County shall not be responsible for any errors or omissions of the bidder/proposer. The solicitation shall be signed by a representative authorized to legally bind the firm. By signing the solicitation, the bidder/offeree agrees to the terms and conditions of the solicitation and certifies that they have inspected the job site(s) and are aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, shall not be considered by the County.

5. **LATE BIDS/PROPOSALS & MODIFICATION OF BIDS/ PROPOSALS:**

Any bid/proposal/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/proposal/modification is considered a late bid/proposal/ modification.

James City County is not responsible for delays in the delivery of the mail by the U.S. Postal Service, private carriers or the inter-office mail system. It is the sole responsibility of the Bidder/Offeree to ensure their bid/proposal reaches the Purchasing Office by the designated date and hour.

- a. The official time used in the receipt of bids/ proposals is that time stamped by the automatic time stamp machine in the Purchasing Office. Date/time stamps marked after the designated time of receipt will be rejected.
- b. Late bids/proposals/modifications will be returned to the Bidder/Offeree UNOPENED, if solicitation number, acceptance date and Bidder/Offeree's return address is shown on the container.
- c. If the County closes its offices due to inclement weather scheduled bid openings or receipt of proposals will be extended to the next business day, same time.
- d. Vendors may modify their bids prior to the date and time specified for the bid opening. Facsimile modification of bids shall not be accepted unless the solicitation allowed such submission.

6. **WITHDRAWAL OF BIDS/PROPOSALS:**

A bidder/offeree for a contract other than for public construction may request withdrawal of his or her bid/proposal under the following circumstances:

- a. Bids/Proposals may be withdrawn on written request from the Bidder/offeree received at the address shown in the solicitation prior to the time of acceptance.
- b. Requests for withdrawal of bids/proposals after opening of such bids/proposals but prior to award shall be transmitted to the County Purchasing Director, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.
- c. Bids/proposals shall not be withdrawn after award of a contract or issuance of a purchase order. No plea or claim of mistake in a solicitation or resulting contract or purchase order shall be available as a defense in any legal proceeding brought upon a contract or purchase order awarded to a bidder/offeree as a result of the breach or nonperformance of such contract or purchase order.

No Bid/Proposal may be withdrawn under this paragraph when the result would be the awarding of the contract on another Bid/Proposal of the same bidder/offeree or of another bidder/offeree in which the ownership of the withdrawing bidder/offeree is more than five percent. In the case of Invitation for Bids, if a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid. No bidder/offeree who is permitted to withdraw a bid/proposal shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid/proposal was submitted.

7. **ERRORS IN BIDS/PROPOSALS –** When an error is made in extending total prices, the unit bid price will govern. Erasures in bids/proposals must be initiated by the bidder/offeree. Carelessness in quoting prices, or in preparation of bid/proposal otherwise, will not relieve the Bidder/Offeree of his responsibilities to provide the good or service. Bidders/Offerees are cautioned to recheck their bids/proposals for possible errors. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

8. **IDENTIFICATION OF BID/PROPOSAL ENVELOPE:** The signed bid/proposal and requested copies should be returned in a separate envelope or package, sealed and identified with the following information:

**ADDRESSED AS INDICATED ON PAGE 1**

**IFB/RFP NUMBER****TITLE****BID/PROPOSAL DUE DATE AND TIME****VENDOR NAME AND COMPLETE MAILING ADDRESS  
(RETURN ADDRESS)**

If a bid/proposal is not addressed with the information as shown above, the Bidder/Officer takes the risk that the envelope may be inadvertently opened and the information compromised, which may cause the bid/proposal to be disqualified. Bids/Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

9. **ACCEPTANCE OF BIDS/PROPOSALS:** Unless otherwise specified, all formal bids/proposals submitted shall be valid for a minimum period of ninety (90) calendar days following the date established for acceptance. At the end of the ninety (90) calendar days the bid/proposal may be withdrawn at the written request of the Bidder/Officer. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

10. **PRICING:**

- a. Bidder warrants by virtue of bidding that prices, terms, and conditions quoted in his bid will be firm for acceptance for a period of ninety (90) days from the date of bid opening unless otherwise stated by the County or Bidder.
- b. Prices should be stated in units of quantity as specified in the bid form.
- c. Life cycle cost analysis may be considered when determining the lowest responsive and responsible bid. This analysis may consider, in addition to purchase price, any proposed upward or downward escalator clauses proposed for the initial contract term and any potential renewal terms; operating and related costs over the life of the item including maintenance, down time, energy costs, salvage value, etc.
- d. Bid prices shall be for complete installation ready for the County's use and shall include all applicable freight and installation charges; extra charges will not be allowed.
- e. When an annual contract is not requested by the County, and the bid is for products or services to be delivered on a one-time only or staggered basis, only firm pricing shall be given consideration. General terms such as "price in effect at time of delivery" shall not be considered for award.

11. **CONDITIONAL BIDS:** Conditional bids are subject to rejection in whole or in part if the price, quality, quantity, delivery, necessary assurances, performance of the contract and other factors deemed important to the solicitation will be affected.

12. **OPENING:** At the time fixed for the opening of responses to a bid, all bids will be opened and the names of the bidders and the amount bid shall be read aloud and made readily available to the public.

If a public opening of a Request for Proposals is held, only the names of the offerors will be read publicly.

13. **RESPONSE TO SOLICITATIONS:** In the event a vendor cannot submit a bid on a solicitation, the vendor is requested to return the solicitation cover sheet with an explanation as to why the vendor is unable to bid on these requirements. Because of the large number of firms listed on the County's Bidders List, it may be necessary to delete from this list the names of those persons, firms or corporations who fail to respond after having been invited to bid for three (3) successive solicitations. Such deletion will be made only after formal notification of the intent to remove the firm from the County's Bidder's List.

14. **BIDDER INTERESTED IN MORE THAN ONE BID:** If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

15. **TAX EXEMPTION:** The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. Tax exemption certificates will be furnished if requested by the Bidder/Officer.

16. **DEBARMENT STATUS:** By submitting their bids/proposals, Bidders/Officers certify that they are not currently debarred by James City County, the Commonwealth of Virginia, the Federal Government, any local government or government agency/entity/authority from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

17. **ETHICS IN PUBLIC CONTRACTING:** The provisions contained in Sections 2.2-4367 through 2.2-4377, Code of Virginia, as amended, shall be applicable to all contracts solicited or entered into by James City County. By submitting their bids/proposals, all Bidders/Officers certify that their bids/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, Officer, supplier, manufacturer or subcontractor in connection with their bid/proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

The Bidder/Officer certifies that to the best of his knowledge, no employee of the County, nor any member thereof, nor any public agency or official impacted by the solicitation or resulting contract has any pecuniary interest in the business of the Bidder/Officer, and that no person associated with the Bidder/Officer has any interest that would conflict in any manner with the performance of the contract resulting from this solicitation.

18. **PERFORMANCE BOND:** When requested in the bid, the County shall require the successful bidder to furnish a performance bond and labor and material payment bond with surety satisfactory to the County Attorney in the amount of the contract price at a time of or prior to execution of the contract.

19. **NO CONTACT POLICY:** No Bidder/Officer shall initiate or otherwise have contact related to the solicitation with any County employee, other than the Purchasing Office, after the date and time established for receipt of bids/proposals. Any contact initiated by a Bidder/Officer with any County representative, other than the Purchasing Office, concerning this solicitation is prohibited and may cause the disqualification of the Bidder/Officer from this procurement process.

20. **LICENSES, PERMITS, AND FEES:** All bids submitted shall have included a list of any business and professional licenses, permits, or fees required by James City County or the Commonwealth of Virginia.

**SPECIFICATIONS**

21. **BRAND NAME OR EQUAL ITEMS:** Unless otherwise provided in the solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The Bidder is responsible to clearly and specifically indicate the product being offered and to provide sufficient descriptive literature, catalog cuts

and technical detail to enable James City County to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding, only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data to enable James City County to determine if the product offered meets the requirements of the solicitation may result the bid being declared non-responsive. Unless the Bidder clearly indicates in its bid/proposal that the product offered is "equal" product, such bid/proposal will be considered to offer the brand name product referenced in the solicitation.

22. **FORMAL SPECIFICATIONS:** When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.
23. **OMISSIONS & DISCREPANCIES:** Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

The Bidder/Offeree shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

24. **EQUIPMENT STANDARDS.** Any equipment delivered shall be standard new equipment, latest model, the best quality, and the highest grade work, except as otherwise specifically stated in bid. Any part of nominal appurtenances which are usually provided in the manufacturer's stock model shall be furnished.
25. **ANNUAL CONTRACT USAGE REQUIREMENTS:** Whenever a bid is sought seeking a source of supply for an annual contract for products or services, the quantities or usage shown are estimates only. No guarantee or warranty is given or implied by James City County as to the total amount that may not be purchased from any resulting contracts. These quantities are for Bidder's information only and will be used for tabulation and presentation of bid.

#### AWARD

26. **AWARD OR REJECTION OF BIDS:** The Purchasing Director shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Director reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids/proposals and to waive any informality in bids/proposals received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders/offerors as deemed necessary to fulfill the anticipated requirements of James City County. The Purchasing Director reserves the right to negotiate with the lowest responsive, responsible bidder should bids exceed available funds. The Purchasing Director shall reject the bid if the bidder is deemed to be a non-responsive or non-responsive bidder.
27. **QUALIFICATIONS OF BIDDERS OR OFFERORS:** James City County may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder/Offeree to perform the work/furnish the item(s) and the Bidder/Offeree shall furnish to James City County all such information and data for this purpose as may be requested. James City County reserves the

right to inspect Bidder's/Offeree's physical facilities prior to award to satisfy questions regarding the Bidder's/Offeree's capabilities. James City County further reserves the right to reject any bid or proposal if the evidence submitted by or investigations of, such Bidder/Offeree fails to satisfy James City County that such Bidder/Offeree is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.

28. **TIE BIDS:** In the case of a tie bid, the County may give preference to goods, services and construction produced in the County or provided by persons, firms or corporations having principal places of business in the County. If such choice is not available, preference shall then be given to goods and services produced in the Commonwealth pursuant to Code of Virginia § 2.2-4324. If no County or Commonwealth choice is available, the tie shall be decided by lot.
29. **FACTORS OTHER THAN PRICE IN AWARD DECISION:** The following factors, in addition to price (as they apply), shall be a consideration in the award decision:
- The quality of performance/workmanship of previous contracts, services or products, or references which attest to other specific experiences;
  - The timely completion of previous contracts or services or the timely delivery of past orders; or references which attest to other specific experiences;
  - The sufficiency of financial resources and its impact on ability of the bidder to perform the contract or provide the services;
  - The County reserves the right to conduct on-site inspections of any bidder's facilities prior to award. The results of said inspection will be considered by the County in determining bidder's capabilities of successfully administering to this contract;
  - The ability and availability of the bidder to provide both quality and timely maintenance, service, and/or parts;
  - The resale value, life cycle costing, and value analysis of a product;
  - The availability and capability of local and regional vendor support as it affects the quantity, quality, and timeliness of the work or products required;
  - Delivery of a product and timely completion of a project as stated by vendor in bid;
  - Substantial compliance or noncompliance with specifications set forth in bid as determined by the County;
  - Product or parts inventory capability as it relates to a particular bid; and
  - Results of product testing.

#### CONTRACT PROVISIONS

30. **APPLICABLE LAW AND COURTS:** Any contract resulting from this solicitation shall be governed in any respects by the laws of Virginia, and any litigation with respect thereto shall be brought in the Circuit Court or General District Court of James City County, Virginia. The Contractor shall comply with applicable federal, state and local laws and regulations.
31. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into this contract, vendor certifies that it does not and will not during the performance of this contract knowingly employ an unauthorized alien as defined in, or otherwise violate the provisions of, the federal Immigration Reform and Control Act of 1986, as amended.

32. **OBLIGATIONS OF COUNTY AND CONTRACTOR:** County:

The County shall furnish to the contractor all available information as listed in the solicitation that may be useful for the contract work. The County shall assist the contractor in obtaining access to enter upon public and private property as required to perform the contract work. The County shall designate a representative who shall serve as the principal contact and give direction to the contractor throughout the duration of the contract. Contractor: The contractor represents that he has, or shall secure at his expense, all personnel, including subcontractors, required to perform and complete the Scope of Work.

33. **CONFIDENTIALITY AND OWNERSHIP OF DATA:** Any reports, information, intellectual property, data, drawings, specifications, estimates and summaries given to or prepared or assembled by the contractor under the Scope of Work of the contract, shall not be made available to any individual or organization by the contractor without prior written approval of the County. All of these items shall become the property of the County upon payment of fees as required by the contract.

34. **REPORTS OF WORK:** The County and the contractor shall schedule progress meetings at appropriate intervals throughout the duration of the contract. These meetings shall provide for the exchange of information related to the status of the Scope of Work, anticipated progress and any problems that have occurred.

35. **ANTI-TRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to James City County all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust law of the United States and James City County, relating to the particular goods or services purchased or acquired by James City County under said contract. Consistent and continued tie bidding could cause rejection of bids by the Purchasing Director and/or investigation for Anti-Trust violations.

36. **PAYMENT TERMS:** Unless otherwise provided in the solicitation payment will be made thirty (30) days after receipt of a proper invoice with complete supporting documentation, or thirty (30) days after receipt of all goods or acceptance of work, whichever is the latter. For construction projects, the County may retain five percent (5%) of the total amount of each partial progress payment to assure faithful performance of the contract by the contractor. The County will release all retainage upon final payment.

- a. Invoices for items/services ordered, delivered/performed and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the contract number, purchase order number, and any federal employer identification number.
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. The date of payment shall be deemed the date of postmark in all cases where payment is made by mail.

37. **PAYMENT TO SUBCONTRACTORS:** A contractor awarded a contract under this solicitation is hereby obligated:

- a. To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from James City County for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
- b. To notify James City County and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from James City County, except for amounts withheld as stated in

b above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of James City County.

38. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Purchasing Director.

39. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, James City County, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to another remedies which James City County may have.

40. **AVAILABILITY OF FUNDS:** It is understood and agreed between the contractor and the County herein that the County shall be bound hereunder only to the extent of the funds available or which hereafter become available for the purpose of the contract.

41. **ANTI-DISCRIMINATION:** By submitting their bids/proposals, Bidders/Offerors certify to James City County that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and the Code of Virginia § 2.2-4311, as amended. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts shall be subject to audit by the public body. (Code of Virginia § 2.2-4343.1.E).

In every contract over \$10,000 the provisions in a and b below apply:

a. During the performance of this contract, the Contractor agrees as follows:

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.

b. The Contractor will include the provisions of a. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

42. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitations or award of this contract because of race, religion, color, sex, national

origin, age or disability or against faith-based organizations. If the award of this contract is made to a faith-based organization and an individual who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, James City County shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, service, or disbursements from an alternative provider.

43. **INVOICES:** Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the IFB/RFP number and/or purchase order number.

44. **PRECEDENCE OF TERMS:** In the event there is a conflict between the General Terms and Conditions and any Special Terms and Conditions, the Special Terms and Conditions shall apply.

45. **CHANGES TO THE CONTRACT:** There shall be no extra work allowed on the contract without prior written authorization in the form of a change order signed by the Purchasing Director or the County Administrator. No officer, agent or employee of the County is authorized to give verbal instructions to increase the Scope of Work and the contractor shall not use verbal instructions as the basis for additional costs. Changes can be made to the contract in any of the following ways by the issuance of a Change Order:

a. The parties may agree to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

b. James City County may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the County a credit for any savings. Said compensation shall be determined by one of the following methods.

- 1) By mutual agreement between the parties in writing; or
- 2) By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the County's right to audit the Contractor's records and/or determine the correct number of units independently; or
- 3) By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the County with all vouchers and records of expenses incurred and savings realized. The County shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Office within thirty (30) days from the date of receipt of the written order from the Purchasing Office. If the parties fail to agree on an amount of adjustment, the questions of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for relieving disputes provided by the Disputes Clause of the contract. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes

ordered by the County or with the performance of the contract generally.

c. No modification for a fixed price contract may be increased by more than 25% or \$50,000, whichever is greater, without the advanced written approval of the Board of Supervisors.

46. **AUTHORIZATION TO TRANSACT BUSINESS, STATE REGISTRATION OF CONTRACTORS (IF APPLICABLE) AND COUNTY BUSINESS LICENSE:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

Pursuant to competitive sealed bidding or competitive negotiation, all bidders or offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 are required to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

Attention is directed to Chapter 11, title 54.1 of the Code of Virginia (Re: State registration of contractors), which requires that all bidders must show evidence of the proper license under the provision of this chapter before such bid is considered.

All firms doing business in James City County are required to be licensed in accordance with the County's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance. Wholesale and retail merchants without a business location in James City County are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Business License Inspector, telephone (757) 253-6698.

47. **PROPRIETARY INFORMATION:** Section 2.2-4342F of the Code of Virginia states: "Trade secrets of proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder, offeror, or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary." Declaring an entire bid or proposal response as proprietary is unacceptable.

48. **INDEMNIFICATION:** The Contractor hereby binds himself and his successors to indemnify, defend, and save harmless James City County, its officers, agents or employees, from all suits and actions of every name and description brought against it or them, and all costs or damages to which it or they may be put, on account of, or by reason of any injury or alleged injury to the person or property of another, resulting from or on account of the negligent acts, errors or omissions, recklessness or intentionally wrongful conduct of the Contractor or his agents in the performance of the contract; and that the whole or so much of the moneys due to the contractor under and by virtue of this Contract, as such or may be considered necessary by the County, shall and may be retained until all such suits and claims for damages as aforesaid shall have been settled, and evidence to that effect furnished to the satisfaction of the County. The said Contractor further agrees to indemnify and save harmless James City County against any and all claims, suits or demands that may accrue to, be suffered by, or adjudicated against it by reason of any injury sustained by any of the Contractor's employees in and about the said work, under and pursuant to the provisions of the Workman's Compensation Law or any amendments thereto, and the Contractor shall produce certificates or other satisfactory evidence of ample protection against such liability.

49. **NOTICE OF REQUIRED DISABILITY LEGISLATION:** The County government is required to comply with State and Federal

disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) of 1990 Title II and the Virginia with Disabilities Act of 1990. Specifically, the County, may not, through its contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II or the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.

50. **DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

51. **Non-Responsive Performance:**  
Delivery Delays: James City County reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Successful Bidder fails to deliver such goods and/or service deliverables in accordance with delivery dates and time frames set forth in this contract. Unacceptable Deliveries (Rejections): Upon notification by James City County that goods and/or service deliverables provided by the Successful Bidder under this contract are damaged and/or not of the quality specified by James City County, such goods and/or service deliverables will be rejected. Successful Bidder shall replace such rejected goods and/or service deliverables immediately or within a reasonable time as determined by James City County. Successful Bidder shall remove all rejected materials, equipment or supplies from the premises of James City County within ten (10) days of notification. Rejected goods and/or service deliverables not removed from James City County premises within ten (10) days will be regarded as abandoned, shall become the property of James City County, and James City County shall have the right to dispose of such items. James City County Purchase From Alternate Sources: James City County reserves the right to authorize immediate purchase from other sources against delayed deliveries and/or rejections. The Successful Bidder shall reimburse James City County promptly for excess costs incurred by James City County for such purchases. Any such purchases will be deducted from the contract amount. In the event James City County cost of obtaining goods and/or service deliverables from other sources be less, Successful Bidder shall have no claim to the difference.  
Liability: Successful Bidder shall be liable to James City County for all costs incurred by James City County as a result of Successful Bidder's failure to perform in accordance with the contract. Successful Bidder's liability shall include, but not be limited to: Damages and other delay costs, to include costs to procure goods/services from alternate suppliers. Increased costs of performance, such as extended overhead and increased performance costs resulting from performance delays caused by

Successful Bidder and/or rejections of Successful Bidder's goods and/or service deliverables. Warranty and rework costs, liability to third party, excess costs, attorney's fees and related costs incurred by James City County due to non-responsive performance of Successful Bidder.

52. **BREACH OF CONTRACT:** Successful Bidder shall be deemed in breach of this contract if the Successful Bidder: Fails to comply with any terms of this contract; Fails to cure such noncompliance within five (5) calendar days from the date of the Owner written notice or such other time frame, greater than five (5) calendar days, specified by the JCC Contract Administrator in the notice. Successful Bidder fails to submit a written response to the Owner notification of noncompliance within five (5) calendar days after the date of the Owner notice. All notices under this contract shall be submitted, either by fax, email or certified mail, return-receipt requested, to the respective contract administrator. Successful Bidder shall not be in breach of this contract as long as its default was due to causes beyond the reasonable control of and occurred without any fault or negligence on the part of both the Successful Bidder and its sub-contractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of Owner in its sovereign capacity, fires, floods, epidemics, strikes, freight embargoes, and unusually severe catastrophic weather such as hurricanes.
53. **TERMINATION:** Subject to the provisions below, the contract may be terminated by the County upon thirty (30) days advance written notice to the other party. Upon receipt of a notice of termination, the contractor shall cease all work underway on behalf of the County unless advised by the County to do otherwise. In the event of termination, Contractor shall be compensated only for the services as set forth in the contract provided to the satisfaction of the County and expenses incurred as of the date of termination. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- a. Termination for Convenience: In the event that the contract is terminated upon request and for the convenience of the County, without the required thirty (30) days advance notice, then the County shall be responsible for payment of services up to the termination date.
- b. Termination for Cause: Termination by the County for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any shall not apply. However, pursuant to the Default paragraph of these General Conditions, the County may hold the contractor responsible for any resulting additional purchase and administrative costs. Any payment due to the contractor at the time of termination may be adjusted to the extent of any additional costs occasioned to the County by reason of the contractor's default. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause.
- c. Termination Due to Unavailability of Funds in Succeeding Fiscal Years: When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled.
54. **CONTRACTOR RESPONSIBILITY FOR COUNTY PROPERTY:** The Contractor shall be responsible for damages to County property caused by work performed by itself or its subcontractors. The Contractor shall be responsible for maintaining the area surrounding and adjoining the work site in their current condition. Property damage to surrounding or adjoining areas caused directly or indirectly by actions or omissions of the Contractor shall be replaced or remedied by the Contractor, to the satisfaction of the County, at the Contractor's expense.
55. **COPYRIGHTS OR PATENT RIGHTS:** The bidder certifies by submission of bid that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the product or

services shipped or ordered as a result of this bid. The successful bidder shall, at his own expense, defend any and all actions or suits charging such infringement, and will save James City County, its officers, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

56. **DELIVERY:** In the appropriate space, the bidder shall state the time of proposed delivery or project completion in number of calendar days. Unless otherwise specified, calendar days shall be presumed. Unless otherwise specified, quote the earliest delivery possible, as this may be considered a factor in making award. Delivery expressed in calendar days may be given preference over such general terms as "stock immediately," and "as soon as possible." As time will be of the essence for any orders places as a result of this bid, the County reserves the right to cancel such orders, or any part thereof, without obligation, if delivery is not made at the time(s) specified on bid form.

57. **INDEPENDENT CONTRACTOR:** The contractor shall be legally considered an independent contractor and neither the contractor nor its employees shall, under any circumstances, be considered servants or agents of James City County or James City Service Authority; and the County shall be at no time legally responsible for any negligence or other wrongdoing by the contractor, its servants, or agents. The County shall not withhold from the contract payments to the contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the contractor. Further, the County shall not provide to the contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the County for its employees.

58. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the Purchasing Director. In the event that the contractor desires to subcontract some part of the work, the contractor shall furnish the Purchasing Director the names, qualifications and experience of the proposed subcontractors. The contractor shall remain fully liable and responsible for the work to be done by its subcontractors and shall assure compliance with all requirements of the contract.

59. **HOLIDAYS:** The Contractor shall receive approval of the County, in advance, of any work to be performed on Holidays. James City Service Authority/James City County observes the following Holidays:

New Year's Day	1 <sup>st</sup> day of January
Martin Luther King's Birthday	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	4 <sup>th</sup> day in July
Labor Day	1 <sup>st</sup> Monday in September
Veteran's Day	11 <sup>th</sup> day in November
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	4 <sup>th</sup> Friday in November
Christmas Eve	24 <sup>th</sup> day in December
Christmas Day	25 <sup>th</sup> day of December

#### DELIVERY PROVISION

60. **SHIPPING INSTRUCTIONS-CONSIGNMENT:** Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of **8:00 a.m. – 3:00 p.m.** Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the designated individual at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays unless previous arrangements have been made. It shall be the responsibility of the contractor to insure compliance with these instructions for items that are drop-shipped.

61. **RESPONSIBILITY FOR SUPPLIES TENDERED:** The Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, and a physical inspection is made and material is requested or rejected, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

62. **TESTING AND INSPECTIONS:** James City County reserves the right to conduct any test/inspection it may deem advisable to assure supplies and services conform to the specification. Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

63. **COMPLIANCE:** Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Office when not in conflict with the bid/contract. The decision as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Office, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages of extra compensation for such delay or suspension. These conditions may vary for construction contracts.

64. **POINT OF DESTINATION:** All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract. The materials must be delivered to the "Ship To" address indicated on the purchase order.

65. **REPLACEMENT:** Materials or components that have been rejected by the Purchasing Office, in accordance with the terms of the contract, shall be replaced by the Contractor at no cost to the County.

66. **PACKING SLIPS OR DELIVERY TICKETS:** All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

- Purchase Order Number/Contract Number
- Name of Article and Stock Number,
- Quantity Ordered,
- Quantity Shipped,
- Quantity Back Ordered,
- The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

67. **SAMPLES:** Evidence in the form of samples may be requested if brand being quoted upon is other than as specified. The County reserves the right to request that such samples be furnished at the time of bid opening. The County also reserves the right to request samples after the date of bid opening. Requested samples must be furnished free of expense to the County and if not used in testing

or destroyed, will, upon request, be returned at the bidder's expense.

#### **BIDDER/CONTRACTOR REMEDIES**

68. **PROTEST OF AWARD OR DECISION TO AWARD:** Any Bidder/ Offeror who desires to protest the award or decision to award a contract, by James City County shall submit such protest in writing to the County no later than ten (10) days after public notice of the award or announcement of the decision to award, whichever comes first. No protest shall lie for a claim that the selected bidder/Offeror is not a responsible Bidder/Offeror. The written protest shall include the basis for the protest and the relief sought. The Purchasing Director shall issue a decision in writing within ten (10) days stating the reasons for the action taken. This decision shall be final unless the bidder/offeror appeals within ten (10) days of the written decision by instituting legal action. Nothing in this paragraph shall be construed to permit an offeror to challenge the validity of the terms or conditions of the solicitation.

69. **DISPUTES:**

Claims. Written notice of the Contractor to file a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. Such claims, whether for money or other relief, shall be submitted in writing to the County's Purchasing Director no later than sixty (60) days after final payment. The Purchasing Director shall give written notification of the final decision on such claim to the Contractor within thirty (30) days of the date the claim was received. The Contractor may not institute legal action before receiving the Purchasing Director's final written decision, unless the Purchasing Director fails to render such decision within the specified time. Pendency of claims shall not delay payment of amounts agreed due in the final payment. (Code of Virginia, § 2.2-4363).

Claims Relief. Under certain circumstances beyond the control of the Contractor, such as acts of God, sabotage, and fire or explosion not caused by negligence of the Contractor or its agent, the Purchasing Director may extend the time limit for performance required by this Contract. Any such extension must be issued in writing and signed by the Purchasing Director.



## ATTACHMENT B

### **CERTIFICATION OF COMPLIANCE WITH § 22.1-296.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.**

I, \_\_\_\_\_, a duly authorized representative and officer of \_\_\_\_\_ (Contractor's name), in accordance with § 22.1-296.1 the Code of Virginia, 1950, as amended, hereby certifies that the employees, subcontractors, partners, and representatives who will be in direct contact with students (i) have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child; and (ii) have not been convicted of a crime of moral turpitude. For the purposes of this certification, "direct contact with students" is defined as "being in the presence of students during regular school hours or during school-sponsored activities."

Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. Williamsburg-James City County Public School Division shall not be liable for materially false statements regarding the certifications required by the Code of Virginia. The contractor is responsible for ensuring that each of its employees, subcontractors, partners, and representatives who will be in direct contact with students have [also executed a copy of this certification agreement] and shall maintain such certifications on file for the duration of the contract period. [Do you want to have a statement that requires them to update this certification if they become aware of changed circumstance?]

I do understand the above information and certify that the above statements are true.

\_\_\_\_\_  
(Contractor's Authorized Office – Signature)

\_\_\_\_\_  
(Contractor's Authorized Officer – Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)